

Katrina in every community in America. We know that we are not yet ready for a catastrophe of that scale.

We need new medicines and new vaccines to protect against the disease threats of the twenty-first century. Yet many biotechnology companies are unwilling to invest in this area because of its uncertain commercial rewards.

Congress previously enacted the BioShield law to provide a guaranteed market for these products, but that program has been implemented poorly and has failed to live up to its promise.

Our legislation makes improvements in BioShield and supplements it by creating a new agency based on the successful model of DARPA, which has enhanced the development of important new products for our national defense. In recent years, the innovative research funded by DARPA has led to breakthroughs in supercomputers, robotics, materials science, nanotechnology, and in many other areas. Through the creation of a new agency, the Biomedical Advanced Research and Development Agency, we can emulate that success in the development of new vaccines and medicines.

But creating new products is only half the story. The newest vaccines and the most sophisticated technology are of little value if our hospitals and health agencies are overwhelmed and underequipped.

Time and again, Congress has called on the administration to take the steps needed to protect America against these new threats. But time and again, the response has been insufficient.

In 2000, Congress enacted the Frist-Kennedy legislation to provide a framework for bioterrorism preparedness. In the first year after the legislation was enacted, these programs received just \$1 million out of the \$360 million called for by the legislation.

Even in the aftermath of the September 11 attacks, the administration initially proposed only \$50 million to upgrade our hospitals and emergency rooms, and requested only \$125 million to improve our health agencies. Thanks to the leadership of Senator DASCHLE, Senator FRIST, and Senator BYRD, and of now-Senator BURR when he served in the House, Congress rejected these recommendations and provided over half a billion dollars for hospital readiness and nearly a billion dollars for health agencies.

Yet the administration has cut these needed funds. The support for hospital readiness through HRSA has decreased from \$518 million in 2003 to \$483 this year. The story is the same in the CDC program to improve our health agencies. Funding has dropped from \$939 million in 2003 to \$834 million this year.

Is it any wonder that study after study shows that America is not ready for a biological attack? Our former colleague, Senator Lowell Weicker, is chairman of the board of the Trust for America's Health, which convened a panel of experts in public health to assess each State's readiness for bioter-

rorism. The sad story is that no State was fully ready. Even the most prepared States scored only 8 out of 10 on measures of basic preparedness.

And these measures don't ask the impossible. One measure is whether a State has plans to ensure continuity of care in an emergency. Another is whether the State can provide additional ventilator beds for ten—yes, just ten—additional patients. Even on these basic measures of readiness the majority of States scored a five or worse—and four States scored only a woeful 2 out of 10.

We have seen the consequences of failure. Now we must prepare for success.

With this bill, we take many important steps to increase our preparedness and response capabilities for public health emergencies. This bill will increase our medical surge capacity, strengthen our public health infrastructure, and clarify the responsibilities of Federal officials.

The first response to emergencies happens at the State and local level. But State and local governments were quickly overwhelmed by the magnitude of the tragedy during Hurricane Katrina and would soon be overwhelmed in a pandemic. Federal assistance is essential. But for the past 4 years, we have been giving States money for public health preparedness without giving them adequate guidance on how to spend it. This bill reauthorizes these grants to State and local public health departments, but now provides benchmarks, performance standards and increased technical assistance from HHS that will allow State and local governments to improve their performance.

Accurate and up-to-the-minute information is essential to managing an emergency. Health information technology is the key to a more effective health care system in so many areas, and it can immeasurably improve our ability to monitor a health emergency. Our legislation includes an important program to harness the power of health IT to aid our health emergency response.

We must learn the lessons of the past and see that our hospitals and health professionals can treat the victims of disease, that our health agencies can detect disease threats rapidly and accurately and that all parts of our society have adequate plans to contain a disease outbreak. This bill takes the right steps to better prepare our Nation for the next public health emergency, no matter what its source. I urge my colleagues to approve this proposal and to work with us to see that we can send it to the President's desk before the end of the Congress.

Mr. BURR. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and

that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5210) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.") The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The bill (S. 3678), as amended, was passed.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, we will be closing down in a few moments. I have several quick pieces of business to do first.

#### EXECUTIVE SESSION

#### NOMINATION OF ANDREW VON ESCHENBACH TO BE COMMISSIONER OF FOOD AND DRUGS, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. FRIST. I ask consent that the Senate proceed to executive session for the consideration of Calendar No. 907, the nomination of Andrew von Eschenbach, to be Commissioner of Food and Drugs, Department of Health and Human Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read the nomination of Andrew von Eschenbach, of Texas, to be Commissioner of Food and Drugs, Department of Health and Human Services.

#### CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 907, the nomination of Andrew von Eschenbach, of Texas, to be Commissioner of Food and Drugs, Department of Health and Human Services.

William H. Frist, Michael B. Enzi, Richard Burr, Thad Cochran, George V. Voinovich, Robert F. Bennett, Tom Coburn, Norm Coleman, Conrad R. Burns, Jon Kyl, Pat Roberts, Mel Martinez, John Ensign, Lamar Alexander, Elizabeth Dole, Christopher Bond, John Cornyn.

Mr. FRIST. Mr. President, this cloture vote will occur on Thursday morning. If we can reach an agreement for a vote at a time certain on this FDA nomination, we would vitiate this cloture vote. In the meantime, I now ask consent that the mandatory quorum be

waived and the Senate now resume legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. President, I should add that Dr. Andrew von Eschenbach has done a superb job in the position he is currently occupying. It is time for the Senate to vote on this outstanding nominee. There are very few, if any, people who substantively are opposed to this nomination. Thus, I intend to use all the influence that I can to have him as Commissioner of FDA before we depart.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

#### APPOINTMENT

The PRESIDING OFFICER. The Chair announces, on behalf of the majority leader, pursuant to Public Law 107-12, the appointment of William Pickle of Virginia to serve as a member of the Medal of Valor Review Board.

#### MEASURE READ THE FIRST TIME—S. 4080

Mr. FRIST. Mr. President, I understand that there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 4080) to amend title 17, United States Code, with respect to settlement agreements reached with respect to litigation involving certain secondary transmissions of superstations and network stations.

Mr. FRIST. Mr. President, I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

#### DISCHARGE AND REFERRAL—S. 4048

Mr. FRIST. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 4048 and that the bill be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR WEDNESDAY, DECEMBER 6, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, December 6. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period of morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, and that the Senate stand in recess from 12:30 until 2:15 to accommodate the weekly party luncheons. I further ask consent that at 11:30 a.m. the Senate proceed to executive session to consider the nomination of Robert Gates to be Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. FRIST. Mr. President, the Senate, tomorrow, will conduct a period of morning business so that Senators may pay tribute to our retiring colleagues. At 11:30, the Senate will proceed to executive session to consider the nomina-

tion of Robert Gates to be Secretary of Defense. It is my hope and expectation that consideration of this critical nomination can be expedited.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:16 p.m., adjourned until Wednesday, December 6, 2006, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate December 5, 2006:

##### COMMODITY FUTURES TRADING COMMISSION

JILL E. SOMMERS, OF KANSAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 2009, VICE SHARON BROWN-HRUSKA, RESIGNED.

##### SOCIAL SECURITY ADMINISTRATION

JEFFREY ROBERT BROWN, OF ILLINOIS, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2008, VICE BRADLEY D. BELT, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

##### DEPARTMENT OF STATE

STANLEY DAVIS PHILLIPS, OF NORTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA.

SAM FOX, OF MISSOURI, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELGIUM.

##### DEPARTMENT OF HOMELAND SECURITY

GREGORY B. CADE, OF VIRGINIA, TO BE ADMINISTRATOR OF THE UNITED STATES FIRE ADMINISTRATION, DEPARTMENT OF HOMELAND SECURITY, VICE R. DAVID PAULSON, RESIGNED.

##### THE JUDICIARY

HEIDI M. PASICHOW, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE ANNA BLACKBURN-RIGSBY, ELEVATED.

FREDERICK J. KAPALA, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE PHILIP G. REINHARD, RETIRING.

##### EXPORT-IMPORT BANK OF THE UNITED STATES

MICHAEL W. TANKERSLEY, OF TEXAS, TO BE INSPECTOR GENERAL, EXPORT-IMPORT BANK. (NEW POSITION)